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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,860	08/17/2001	Craig M. Carpenter	4880US (01-0170)	6588
24247	7590	08/23/2005	EXAMINER	
TRASK BRITT P.O. BOX 2550 SALT LAKE CITY, UT 84110			ZERVIGON, RUDY	
			ART UNIT	PAPER NUMBER
			1763	
DATE MAILED: 08/23/2005				

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/932,860  
Filing Date: August 17, 2001  
Appellant(s): CARPENTER ET AL.

**MAILED**

AUG 23 2005

**GROUP 1700**

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Bradley B. Jensen  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed April 13, 2005.

Art Unit: 1763

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) *Summary of claimed subject matter***

The summary of claimed subject matter contained in the brief is correct.

**(6) *Grounds of rejection to be reviewed on appeal***

The appellant's statement of the grounds of rejection to be reviewed on appeal in the brief is correct.

**(7) *Response to arguments***

Applicant states:

“

Applicants respectfully submit that the combination of Sajoto, Whitney and Kukuda fails to teach or suggest a temperature sensing device, as defined in claim 1, that is *disposed between the layer of insulation and the longitudinal body portion of the feedthrough device....*

Art Unit: 1763

Appellants submit that Whitney does not provide a temperature sensing device disposed between the layer of thermal insulation and the longitudinal body portion of the feedthrough device configured to generate a signal representative of a temperature sensed thereby.

“ (Page 8)

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The Examiner has already set forth that Sajoto et al (USPat. 6,056,823) teaches applicant's invention as substantially claimed. Yet, the Examiner has asserted that the deficiencies of Sajoto et al (USPat. 6,056,823) are met, nearly entirely, by Whitney (USPat. 4,638,150). Fukuda is only cited as demonstrating the well-known practice of associating a “temperature sensing device”, as Fukuda's thermocouple, with a heater for controlling the heating of process gas piping. All references are in the field of Applicant's endeavor, and are at least reasonably pertinent to the problem to which Applicants are concerned.

Applicant states:

“

Appellants submit that there is no motivation to place Fukuda's thermocouple within the “insulation” of Whitney since Whitney's device is specifically configured as a “self-limiting heater” does not need additional monitoring to maintain its temperature within a desired range.

“ (Page 8)

Art Unit: 1763

The Examiner disagrees. There is ample motivation in Whitney for adding Fukuda's thermocouple to Whiney's heater. Indeed, once Whitney's heater is replaced with Sajoto's heater, the interface between Whiney's stainless steel "thermally conductive sheathing" (46; Figure 4) and Sajoto's "thermal insulator" (65; Figure 3A) would be obvious to one of ordinary skill in that art to add Fukuda's thermocouple (54a; Figure 5) to said interface. Support for this position is provided by:

Fukuda:

"

The temperature controller 55a processes the temperature information by the control section thereof, and the amount of electricity supplied to the heater 13a is adjusted by a power supply provided within the temperature controller 55a.

" (column 7; lines 4-9)

"

...increasing the efficiency of substrate processing by preventing an opening portion of an introduction tube from being clogged, ...

" (column 1; lines 59-63) – Specific motivation for Sajoto's substrate processing.

"

...and if a plurality of opening portions are controlled independently of each other by the heating means, the mixing of gaseous raw materials can be avoided, and meticulous temperature control in accordance with the type of gaseous raw material can be performed.

" (column 3; lines 17-22) – Specific motivation for Sajoto's substrate processing.

Art Unit: 1763

Additionally, simply because Whiney's heater is self limiting, the addition of Fukuda's thermocouple would still provide added control as taught by Fukuda above. Further, Whitney's self-limiting heater is only designed to be self-limiting in a larger operating range as taught by Whitney (column 2; lines 25-40). Thus the *function* of Whitney self-limiting component is to maintain the heater in the desired operating range. As such, the addition of Fukuda's thermocouple to Whitney's heater is *not* redundant as Applicant contends, but adds to the overall control of process gas pipe delivery temperature control to add the above cited benefits.

Applicant states:

“

Second, Appellant's submit that the Examiner conflates Whitney's use of the term insulation in the electrical sense with the Appellant's use of insulation in the thermal sense.

“

In response, the Examiner cites the *original* first action non-final rejection of December 19, 2002. On page 4, the Examiner *rejected* Applicant's then sole claim requiring a “conductive sheathing” which *did not* specify if the conductivity was a thermal or electrical conductivity. As such, the Examiner has not “conflated” the claimed “thermal conductivity” to which Whitney specifically teaches. The Examiner is well aware, as the Examiner initially demonstrated to Applicant's edification, the deficiencies in Applicant's originally filled claims with respect to “conductivity”. Indeed, Whitney's “thermally conductive sheathing” (46; Figure 4) and Applicant's “thermally conductive sheathing” of claim 7 are made of identical material – “stainless steel”. As a result, when the structure recited in the reference is substantially identical to that of the claims, claimed properties or functions are presumed to be inherent (In re Best, 562

Art Unit: 1763

F.2d 1252, 1255, 195 USPQ 430, 433 (CCPA 1977); MPEP 2112.01). In this case the “properties” in question is thermal conductivity.

Applicant states:

“

... fails to teach or suggest a layer of thermal insulation that includes at least a portion *which is contiguous with at least one of a surface of the chamber body and a surface of the longitudinal body portion.*

“ (Page 12)

In response, because the Examiner has already demonstrated that Sajoto’s thermal insulation (65; Figure 3A) is contiguous with *all* of a surface of the chamber body (12; Figure 3A) and a surface of Sajoto’s longitudinal body portion (conduit for 40 (not labeled) – column 5, lines 65-67; Figure 3A; compare 208, Figure 2 of Application, [0036]), the Examiner’s proposed combination of Sajoto, Whitney, and Fukuda is believed to fully meet Applicant’s claim requirement under grounded motivation found in the references themselves (see above, and in prior actions).

Response to arguments under claim 8-10:

The Examiner explicitly addressed the claim 8 requirements in the final portions of the 103 rejections.

**(8) Claims appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

Art Unit: 1763

(9) *Evidence appendix*

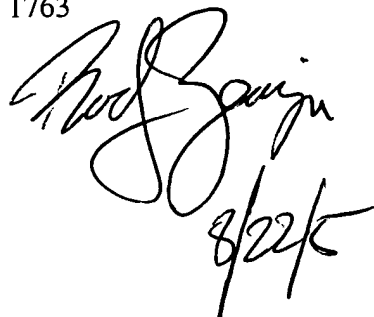
Acknowledged

(10) *Related proceedings appendix*

Acknowledged

Respectfully submitted,

Rudy Zervigon  
Primary Examiner  
Art Unit 1763

Handwritten signature of Rudy Zervigon in cursive, with the date 8/22/05 written below it.

Rudy Zervigon  
August 22, 2005

Conferees

Rudy Zervigon (Primary Examiner, A.U. 1763)

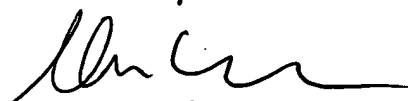
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